

2B-1.0041 Expedited Hearings for False Military Service.

The procedure for the investigation and hearing, if necessary, of a sworn complaint alleging a violation of Section 104.271(2) or 104.2715, F.S., will be as described in Rule 2B-1.004, F.A.C. and Sections 106.24, 106.25, 106.26, F.S., except that the following time restrictions shall be adhered:

(1) The executive director shall make a determination as to legal sufficiency of the complaint, and the legal sufficiency or legal insufficiency letter shall be sent by certified mail no later than 5 days after the expiration of the time allotted for the respondent to provide a written response to the complaint.

(a) If the complaint also alleges a violation of any section of law other than Section 104.271(2) or 104.2715, F.S., the executive director shall cause the complaint to be separated into two complaints, one of which shall contain all allegations made under Sections 104.271(2) and 104.2715, F.S., and one of which shall contain all other allegations made by the complaint.

(b) A new case number shall be assigned to the complaint containing all allegations other than those made under Sections 104.271(2) and 104.2715, F.S., and the procedures and time restrictions of subsections (2) through (4) of this rule shall not apply to the investigation and hearing, if necessary, of such complaint.

~~(1) If the executive director finds that the complaint is legally sufficient, the legal sufficiency letter shall be sent by certified mail no later than 10 days after the expiration of the time allotted for respondent to provide a written response to the complaint.~~

~~(2) The Commission shall complete its report of investigation no later than 30 60 days after the respondent's receipt of the legal sufficiency letter.~~

~~(3) A copy of the Commission counsel's probable cause recommendation shall be furnished to the respondent no later than 510 days after the expiration of the time allotted for respondent to provide a written response to the investigator's report.~~

~~(4) Upon a finding of probable cause, the case shall proceed to hearing in accordance with Section 106.25(5), F.S., except that:~~

~~(a) In cases to be heard by the Division of Administrative Hearings, the executive director shall, no later than 510 days after receipt of an election from the respondent to have a formal administrative hearing conducted by an administrative law judge in the Division of Administrative Hearings order finding probable cause, refer the case to the Division of Administrative Hearings for an expedited hearing. The respondent may elect for such hearing to be expedited by requesting an expedited hearing in writing.~~

~~(b) In cases involving disputed issues of material fact to be heard by the Commission, the Chairman shall, within 510 days of determining that a disputed issue of material fact exists, issuing an order finding probable cause, direct that a Commissioner or Commissioners hear the case, in accordance with subsection 2B-1.004(5), F.A.C. Determination as to the existence of a disputed issue of material fact shall be made by the Chairman within 5 days of receipt of such claim by respondent. The Chairman shall direct that the hearing be an expedited proceeding, and shall provide a framework for expedited discovery.~~

~~(c) Informal hearings, involving no disputed issues of material fact, shall be conducted before the Commission at the next scheduled commission meeting, unless the Chairman elects to proceed in accordance with subsection 2B-1.004(5), F.A.C.~~

Rulemaking Authority 104.2715(3) FS. Law Implemented 104.2715 FS. History—New 1-8-14.